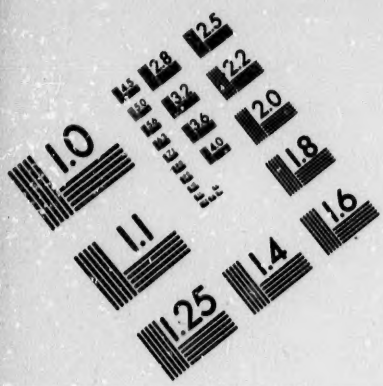
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Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:

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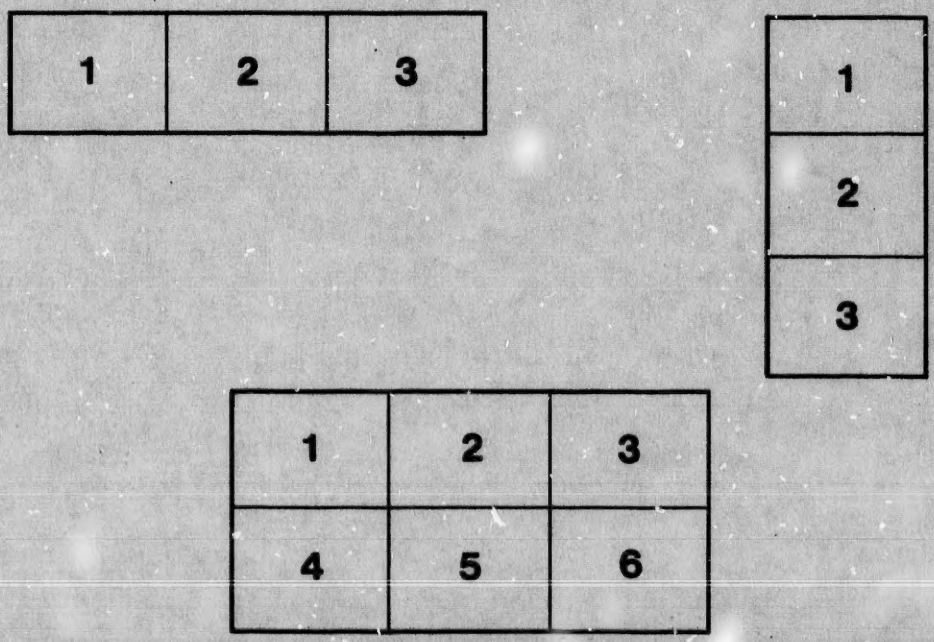
Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole → signifie "A SUIVRE", le symbole ▽ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.



PROVINCE OF LOWER-CANADA;

IN APPEAL.

THOMAS BUSBY & AL.

APPELLANTS.

AND

ANTOINE WCOLMAN, Exec^r. &c.

RESPONDENT.

APPELLANTS' CASE.

PROVINCE OF LOWER-CANADA;

PROVINCE OF LOWER CANADA.

Court of Appeals.

In a Cause between

THOMAS BUSBY *& al.*
Appellants.

AND

ANTOINE WOOLMAN, *Executor, &c.*
Respondent.

THE APPELLANTS' CASE.

THIS appeal originates in an attachment or *Saisie-Arrêt*, sued out at the instance of the Appellants' Creditors by Judgment of the succession of A. Winklefoss, for attaching certain monies belonging to that succession, in the hands of David Ross.—Upon the return of the Writ the Garnishee declared on his oath that Woolman, the Executor of A. Winklefoss's Will, had put into his hands £810 : 11 : 6, belonging to the said succession which he still held.

The Defendant Woolman, resisted the Attachment: and by his plea contended that it had been imperfectly sued out, and could not lie, because, as Executor of Winklefoss's Will, he had been sued in the same Court by one Marie Anne La Casse, to render an account of the *Community* which had subsisted between the said Winklefoss and one Marguerite Richard, in which action he the said Woolman did render such account which is now before the Court, and that the said account he acknowledged to have in his hands 12,c36^{liv}. : 19^{s}. : 11^{d}. which he is answerable by *Contrainte par corps :* thence the said Woolman infers the said attachment to be illegal and concludes accordingly.

To this strange plea the Appellants, without admitting the facts alledged, but on the contrary denying their truth, demurred.—After hearing the parties, the Court on the 20th June, 1812, pronounced the following intertocutor—"It is ordered that the Defendant do at his diligence, notify to all persons having any claim upon the monies attached and seized in the hands of the garnishee as belonging to the estate of the late A. Winklefoss to appear in this Court on the first of October next, and shew cause why the said monies should not be paid over to the said Plaintiffs in satisfaction of their demand, with costs." No such cause as mentioned in this intertocutor having been shewn the Appellants on the 19th of October moved the Court to award judgment in their favor against the garnishee, after a hearing, the Court to the great surprise of the Appellants, who had considered their rights recognized by the said interlocutor, dismissed their action with costs.

From

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From this judgment the present appeal has been brought.

1st. Because judgment was given in favor of the Respondents whereas it ought to have been given against them, and in favor of the Appellants.

2dly. Because the Appellants petition fyled in the Court below and the attachment issued in the said cause, were legal, regular and well founded, and ought to have been maintained.

3dly. Because the plea of Woolman was insufficient in law, and the allegations therein false, &c.

4thly. Because the Interlocutory judgment of the 20th June, 1812, was rendered contrary to law, &c.

5thly. Because the judgment of 20th October last is contradictory to and inconsistent with the said interlocutory judgment, &c.

6thly. Because the facts, &c. stated in judgment of 20th October last are untrue and unfounded.

7thly. Because the said last mentioned judgment has been rendered contrary to law and evidence.

Quebec, day of January, 1813.

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